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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,563	09/15/2003	Michael Ryan Davis	200309569-1	9738

22879 7590 02/09/2006

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EXAMINER
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SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
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2115

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/662,563

Applicant(s)

DAVIS ET AL.

Examiner

Suresh K. Suryawanshi

Art Unit

2115

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-9 are presented for examination.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thangadurai (US Patent 6,748,526) in view of Fish et al (US Patent 6,381,693; hereinafter Fish).
4. As per claims 1, 2 and 9, Thangadurai discloses processor firmware matching mechanism in a system having plurality of processors and firmware. The matching mechanism is based on comparison of a version of processor firmware with the version of processor firmware required by a processor [Fig. 5; col. 1, lines 36-43; col. 2, lines 46-51; col. 4, lines 7-12, 54-67; col. 5, lines 1-17, 49-64; col. 6, lines 6-8, 16-20]. Thangadurai does not expressly disclose about looking for a firmware based on a processor type. However, Fish clearly discloses matching a firmware to a processor based on the processor type [Fig. 3; col. 1, lines 6-8; col. 3, lines 34-51; col. 4, lines 8-19, 45-46; the processor identifier may be either hardware or software; col. 5, lines 35-48, 53-67; col. 6, lines 24-33]. Therefore, it would have been obvious to one of ordinary skill

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in the art at the time the invention was made to combine the cited references as both are directed to provide an appropriate firmware to at least one processor. Moreover, the disclosed processor firmware matching mechanism using the version verification by Thangadurai can be enhanced or modified using the processor type identifier. The processor type identifier will definitely provide a faster way to find a corresponding firmware.

5. As per claims 3 and 8, Thangadurai and Fish discloses the invention substantially.

Thangadurai and Fish do not expressly disclose about a management processor to determine a firmware for a processor. However, both disclose the functionality of selecting one of plurality of firmware for at least one processor and to do so there should have been a controller or a sub processor or a management processor or some sort of interface for making the decision.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a management processor for selecting a compatible boot image.

6. As per claims 4 and 5, Thangadurai discloses that the boot-image information comprises version information [col. 1, lines 36-43; col. 2, lines 46-51; col. 4, lines 7-12, 54-67; col. 5, lines 1-17, 49-64; col. 6, lines 6-8, 16-20].

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7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thangadurai (US Patent 6,748,526).

8. As per claim 6, Thangadurai discloses processor firmware matching mechanism in a system having plurality of processors and firmware. Thangadurai clearly discloses if a version of processor firmware fails to match with any one of the versions of processor firmware indicated by CPU 502, 504, 506, and 508, the processor firmware validation process is suspended and a new version of processor firmware is obtained [col. 6, lines 6-20]. Thangadurai does not explicitly disclose about erasing the discardable boot image from the EEPROM and writing a new boot image to the EEPROM. However, it is obvious from Fig. 3 that the updatable portion of the memory will be erased and re-written with new copy of the boot image [Fig. 3; col. 4, lines 46-53]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to update the old copy of firmware with a new copy of firmware as needed. Moreover, a routineer will do so clearly as seen in Fig. 3 that the storage media is divided into a first and second portion. The first portion is write-protected and the second portion is updatable.

9. As per claim 7, Thangadurai discloses that the processor is a processor on a cell of a cellular computer system [Fig. 1, 3 and 5].


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K. Suryawanshi whose telephone number is 571-272-3668. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sks  
February 2, 2006

  
THOMAS LEE  
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